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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/728,605

12/01/2000

Michael de La Chapelle

7784-000141CPA

4741

7590

12/15/2004

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EXAMINER

PEREZ, ANGELICA

ART UNIT

PAPER NUMBER

2684

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/728,605

Applicant(s)

CHAPELLE, MICHAEL DE LA

Examiner

Angelica M. Perez

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-8 of copending US Patent Application No. 884,555. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Regarding claim 1, US Patent Application No. 884,555 discloses a method for managing radio frequency (RF) transmissions from an RF system of at least one mobile platform operating within a predetermined coverage region to a space-based transponder orbiting within the coverage region, in a manner to maintain a signal-to-noise ratio (Eb/No) of the RF transmissions within a predetermined range (see page 15, claim 1, lines 5-7), the method comprising the steps of: using a first control loop to monitor, by a central controller, a signal-to-noise ratio of the RF transmissions received by the satellite transponder (page 15, claim 1, lines 10-12), and to transmit commands

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to the mobile platform via the satellite transponder for maintaining the signal-to-noise ratio within a predetermined range (page 15, claim 1, lines 12-15); and using a second control loop including a mobile system of the mobile platform to monitor and periodically adjust a power level of the RF transmissions to the satellite transponder (page 15, claim 1, lines 15-20) to thereby maintain the power level of the RF transmissions at a previously commanded level (page 15, claim 1, lines 21-24).

*The cited reference has more limitations, thereby encompassing the present application's limitations.*

Furthermore, omission of an element and its function in combination is obvious expedient if remaining elements perform same functions as before. In re KARLSON (CCPA) 136 USPQ 184 (1963).

Regarding claim 2, US Patent Application No. 884,555 discloses where the predetermined signal-to-noise range comprises a range of about 1dB (page 15, claim 2, lines 1-2).

Regarding claim 3, US Patent Application No. 884,555 discloses where the predetermined signal-to-noise range is above a threshold signal-to-noise ratio of the central controller (page 15, claim 3, lines 1-3).

Regarding claim 4, US Patent Application No. 884,555 discloses the step of using the central controller to determine if the RF transmission from the mobile platform remains outside of the predetermined signal-to-noise ratio for more than about one second and, if so, commanding the mobile platform to cease the RF transmissions (page 15, claim 3, lines 1-3).

Regarding claim 5, US Patent Application No. 884,555 discloses the step of monitoring by a central controller comprises monitoring by a ground-based central controller located within the coverage region (page 15, claim 3, lines 1-3).

Regarding claim 6, US Patent Application No. 884,555 discloses a method for managing using a first control loop to monitor transmissions to maintain and adjust a power level of the RF same within the predetermined range, the first control loop including the steps of: receiving the RF transmissions at a central controller, using the central controller to determine a signal-to-noise ratio of the RF transmissions received by the satellite transponder, comparing the determined signal-to-noise ratio with predetermined signal-to-noise values representing the predetermined range; and transmitting commands representing changes in the signal-to-noise ratio from the central controller to the space-based transponder, and from the space-based transponder to the mobile platform, to thereby command the mobile platform to adjust a power level of its the RF transmissions, in real time, to maintain the signal-to-noise ratio of the RF transmissions within the predetermined range (page 15 and 16, claim 6, lines 1-29).

Regarding claim 7, US Patent Application No. 884,555 discloses using a second control loop between the mobile platform and the satellite transponder to monitor and maintain the signal-to-noise ratio at a previously commanded level, the second control loop including the steps of: monitoring the signal-to-noise ratio of the RF transmissions between the mobile platform and the satellite transponder, and periodically adjusting the

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power level of said RF transmissions to maintain level determined by the central the power level at the previously commanded controller (page 16, claim 7, lines 1-14).

Regarding claim 8, US Patent Application No. 884,555 discloses a method of determining a power spectral density (PSD) of an RF signal from a mobile platform having an RF transmitter/receiver directed at a space-based transponder, the method comprising the steps of: using a central controller to receive and determine a signal-to-noise ratio of the RF signal transponder from the space-based transponder; assuming that the signal-to-noise ratio of the RF signal received by the central controller is approximately identical to a signal-to-noise ratio of a RF signal at an output of the space-based transponder, determining an effective isotropic radiated power (EIRP) value of an RF signal directed at the space-based transponder by the mobile platform as a function of the signal-to-noise ratio of the RF signal received denoting the EIRP value as a target EIRP; by the central controller, and using the target EIRP and a pattern of an antenna of the mobile platform to determine an actual EIRP reaching a GEO arc within which the space-based transponder resides; and using the actual EIRP reaching the GEO arc to determine the PSD of the RF signal being transmitted by the mobile platform (page 16, claim 8, lines 1-28).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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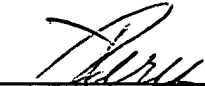
**Conclusion**

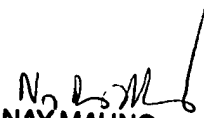
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angelica Perez whose telephone number is 703-305-8724. The examiner can normally be reached on 7:15 a.m. - 3:55 p.m., Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and for After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either the PAIR or Public PAIR. Status information for unpublished applications is available through the Private PAIR only. For more information about the pair system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2600's customer service number is 703-306-0377.

  
Angelica Pérez  
(Examiner)

  
NAY MAUNG  
SUPERVISORY PATENT EXAMINER  
Art Unit 2684

December 3, 2004